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Date 1/6/93

Surname [REDACTED] /17103

OCT 20 1992

Employer Identification Number: [REDACTED]
Key District Office: Baltimore

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(5) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

Your creating document is a Constitution that was ratified by your organization on [REDACTED]. Your Constitution provides that your purpose is "to assist with the development of youth through the involvement of parents and other adult volunteers who organize and conduct a 4-H livestock sale in conjunction with the [REDACTED] County Fair".

You are a membership organization comprised of parents of children between the ages of 7 through 18 who are 4-H participants. You conduct a sale of [REDACTED] livestock at the annual [REDACTED] County Fair. The purpose of this activity is to sell livestock raised by [REDACTED] that is ready for market. Your activities include seeking buyers for the livestock, setting up the sale ring, advertising the sale, hiring an auctioneer, eartagging the livestock, and taking care of all related administrative matters. In addition, you transport the animals to the Fair, to the butcher for slaughter for the buyer, or to the market if the buyer does not want the meat. You also advise the [REDACTED] on proper health and feeding practices for their animals throughout the year.

Your income derives from commissions received for each animal sold. Your commission rates are [REDACTED] percent for steers, and [REDACTED] percent for lambs and swine. The commissions cover the costs of hauling sold animals to the butcher or the market, office supplies, and advertising. The remaining revenue from the sale goes to the [REDACTED]. You also raise funds through the sale of advertising in an ad book that provides information regarding the sale.

Section 501(c)(5) of the Code provides for exemption from federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides, in part, that organizations contemplated by section 501(c)(5) as entitled to exemption from income taxation are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Rev. Rul. 66-105, 1966-1 C.B. 145, involved an organization whose primary activity was the marketing of its members' livestock. The proceeds went to the members, after expenses were deducted. The ruling held that the sale of members' products was not a purpose or an activity within the scope of section 501(c)(5) of the Code. Therefore the organization did not qualify for exemption under that Code section.

Rev. Rul. 69-51, 1969-1 C.B. 159, held that the marketing of members' cattle by an otherwise qualifying section 501(c)(5) organization did not promote the betterment of conditions of cattle breeders nor did it improve the breed generally. Rather, the activity provided a convenience to members, as well as production of income. Further, the marketing activity had no causal relationship to the organization's exempt purpose and did not contribute importantly to the accomplishment of that purpose. Therefore, the sales activity constituted an unrelated trade or business.

Like the organization in Rev. Rul. 66-105, supra, your primary activity is the marketing of livestock owned by the children of your members. As with the organization in Rev. Rul. 69-51, supra, the sales activity serves as a convenience to the 4-Hers' and their parents, who are your members. It also serves as a production of income to the 4-Hers', who use the proceeds to purchase more livestock for future 4-H projects. Although the raising and marketing of livestock may be educational for the participating children, such a purpose does not come within the ambit of section 501(c)(5). Your activities do not promote the betterment of those engaged in the raising of livestock, nor do they serve to improve any particular breed of livestock generally. Inasmuch as your activities do not promote an exempt purpose within the meaning of section 501(c)(5), your primary activity constitutes an unrelated trade or business.

Accordingly, since your activities do not promote the betterment of conditions of animal breeders and do not improve the grade of their products, you are not an organization described in section 501(c)(5) of the Code.

You are required to file federal income tax returns. Since you are a corporation, you must file Form 1120 with the District Director of Internal Revenue for the area in which your principal place of business is located.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the District Director, Baltimore, Maryland. Thereafter, any questions about your federal income status or the filing of returns should be addressed to that office.

If you decide to protest this proposed ruling, you will expedite our receipt of your communication by placing the following symbols on the envelope as part of our address:

[REDACTED]

Sincerely,

[REDACTED]

[REDACTED]

Chief, Exempt Organizations
Rulings Branch 1

cc: [REDACTED]
Attn: EO Group

10/14/92

10/18/92